NEW WAVE INC.

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EX PARTE OR LATE FILED

ORIGINAL

Ms. Magalie Roman Salas
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C.
20554

January 20, 1998

Re: **Ex Parte Comments to WT Docket 97--82**

Dear **Secretary Salas**,

New Wave Inc. is a small Wireless Reseller in the NorthEast region. Over the last several months, I have corresponded rather extensively with the FCC in regards to Docket 97-82. The resolving of the C-Block dilemma is quintessential to the survival of my company. To that end, we are waiting, with bated breath, for a viable restructuring option which would allow C-Block licensees to build out their networks, generate revenues and consequently allow smaller players like myself the opportunities to enter the local loop services market and provide innovative services at lower rates thus benefiting the American consumer.

We have been actively participating in the proceedings and have found that certain companies have stated that resellers have multiple carrier options from which to choose. We would be grateful if you would incorporate the attached study, conducted by the National Wireless Resellers Association, into the record in WT Docket 97-82. The study provides significant and useful information on the difficulty that companies like New Wave Inc. experience in obtaining fair and reasonable resale terms.

Sincerely,

Monuj Bose
(CEO)

cc. **Honorable Chairman William Kennard**
cc. **Honorable Commissioner Harold Furchtgott-Roth**
cc. **Honorable Commissioner Michael Powell**
cc. **Honorable Commissioner Gloria Tristiani**
cc. **Honorable Commissioner Susan Ness**
cc. **Mr. Daniel Phythyon**
cc. **Ms. Sandra Danner**

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NWRA

NATIONAL WIRELESS RESELLERS ASSOCIATION

1997 SURVEY OF WIRELESS RESELLERS

JULY 1997

1997 SURVEY OF WIRELESS RESELLERS
Survey Highlights

The National Wireless Resellers Association conducted its *1997 Survey of Wireless Resellers* in June, mailing survey forms to nearly 100 wireless resellers. Almost half completed and returned forms to NWRA. Listed below are selected survey findings:

* Retail airtime rates offered by wireless resellers average 10 percent lower than those offered by wireless carriers.

* The average monthly retail bill is $65, and the average wholesale/retail margin is 27 percent.

* Resellers serve nearly 2 million consumers and account for about 6 percent of total industry revenue.

* 43 percent of new reseller subscribers have not previously used wireless service.

* More than 70 percent of resellers reported being denied access to bulk discounts offered by carriers to their retail customers.

* 50 percent of resellers reported being denied access to a cellular resale agreement.

* Over 60 percent said they were denied access to a PCS resale agreement.

* Resellers offer consumers a variety of services they would not otherwise receive in specific geographic markets, including detailed billing, prepaid service, and rental and loaner phones.

* Resellers, in line with the "one-stop shopping" trend, often provide a range of telecomunications services to their customers in a consolidated bundle. More than 80 percent of survey respondents offer paging service and over half offer long distance service.

* Many resellers target specific market segments and tailor their services to appeal to these segments. These market niches include small businesses, construction companies, ethnic minorities, and university campuses.

1997 SURVEY OF WIRELESS RESELLERS

NATIONAL WIRELESS RESELLERS ASSOCIATION

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National Wireless Resellers Association

The *1997 Survey of Wireless Resellers* was conducted by the National Wireless Resellers Association. NWRA is the largest trade group in the country which exclusively represents the interests of wireless resellers. NWRA's mission is to promote a competitive market for wireless services by creating a better business climate for wireless resale. NWRA is located at 1825 Eye Street, N.W., Suite 400, Washington, D.C. 20006. The association's telephone numbers are 202.429.2014 and (f) 202.857.0897.

1. Executive Summary

Wireless resellers* have faced an uphill battle in the cellular industry's duopoly environment. Nevertheless, based on data collected in NWRA's *1997 Survey of Wireless Resellers,* they have succeeded in capturing nearly 2 million subscribers, of whom almost half are first-time users of wireless service.

Resellers have succeeded by offering a broad range of services at rates below their facilities-based competitors. According to survey results, average reseller rates are 10 percent lower than carrier retail rates in the same markets.

Now, with the launch of personal communications services (PCS) and specialized mobile radio (SMR), the benefits resellers bring to consumers are poised to have an even broader impact, if resellers can overcome entrenched carrier hostility.

Carriers appear to be retaliating against resellers. Over 70 percent of resellers responding to the NWRA survey reported being denied access to bulk discounts carriers are offering their retail customers. Equally disturbing, over 50 percent of resellers reported being denied access to a cellular resale agreement and more than 60 percent reported being denied a PCS resale agreement.

NWRA's *1997 Survey of Wireless Resellers* confirms that Federal rules requiring facilities-based wireless carriers to offer their services to resellers on a nondiscriminatory basis are critical to the continued development of a competitive wireless market. Indeed, the survey shows that the Federal Communications Commission (FCC) must strengthen its oversight of the wireless resale market to ensure that reseller rights are protected and consumers are able to enjoy the full range of services resellers bring to the marketplace.

* For purposes of this report, the term "wireless reseller" refers to companies which resell two-way, voice wireless services.

2. Industry Overview

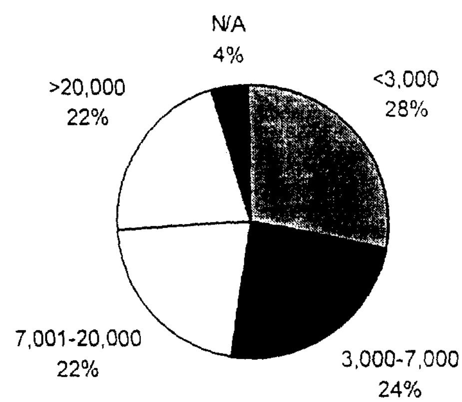
The FCC first articulated a telecommunications resale policy in 1976, when it found that key sections of the 1934 Communications Act prohibited wireline carriers from restricting the resale of their private line services. In addition to the legal requirements, the FCC determined that unrestricted resale would encourage cost-based pricing, deter rate discrimination, and generally promote competition. In 1980, relying essentially on the same rationale, the FCC extended its prohibition on resale restrictions to the long distance telephone market and, a year later, the cellular industry. In 1996, the FCC ruled that broadband PCS and SMR carriers also cannot restrict resale of their services.

3. Survey Results: Highlights

NWRA conducted its *1997 Survey of Wireless Resellers* to obtain an overall view of the wireless resale market and to understand better who resellers are, how they operate, and which issues are of concern to them. The survey highlights four areas of particular interest: the size of the wireless resale market, consumer benefits from resellers, reseller-carrier relationships, and reseller difficulties with PCS carriers.

3.1 Wireless Resale Market: Larger than Estimates, Smaller than Long Distance Market
The size of the wireless resale market has been uncertain, but the survey indicates that it is larger than traditional appraisals. Based on information gathered by NWRA over the last several years, the association estimates that there are between 100 and 120 wireless resellers in the United States. Since the survey shows that the average reseller has about 15,000 customers, NWRA estimates at least 1.5 million customers obtain their wireless service through resellers other than MCI, the nation's largest wireless reseller. When MCI's roughly 400,000 customers are added, the total rises to 1.9 million resale customers or, in terms of subscribers, almost 5 percent of the overall wireless market (based on the Cellular Telecommunications Industry Association's (CTIA) 1996 year-end subscriber numbers). The estimated subscriber totals and market share are more than double those cited in the FCC's March 1997 *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services.*

Resellers by Size of Subscriber Base



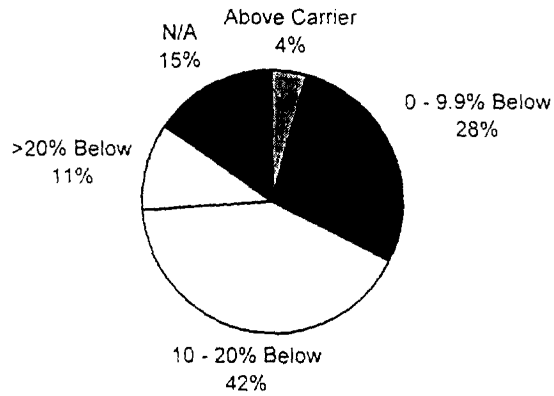
Despite being larger than had been estimated, the wireless resale market still trails far behind the long distance resale industry, where resale began. In terms of revenue, smaller long distance carriers, those other than AT&T, MCI, Sprint, and Worldcom, held 15 percent of the overall market, according to the FCC in its report, "*Long Distance Market Share, Third Quarter 1996.*" By comparison, wireless resellers accounted for only 6 percent of total wireless revenues.*

3.2 Consumer Benefits: Lower Prices, Improved Services

Wireless resellers responding to the survey indicated that their retail airtime rates averaged 10 percent less than the retail rates of their supplying carriers. Resellers with between 3,000 and 7,000 subscribers offer a discount of almost 17 percent; resellers in that segment have existed for over 6 years, on average, and account for a quarter of those surveyed.

* Wireless resale revenue and market share were arrived at by multiplying the average monthly bill reported in the survey by 12, multiplying that number by the estimated number of reseller customers, and then dividing that sum by $23.6 billion, CTIA's latest estimate of annual wireless revenue.

Resellers by Price Differential from Carrier Retail Rates

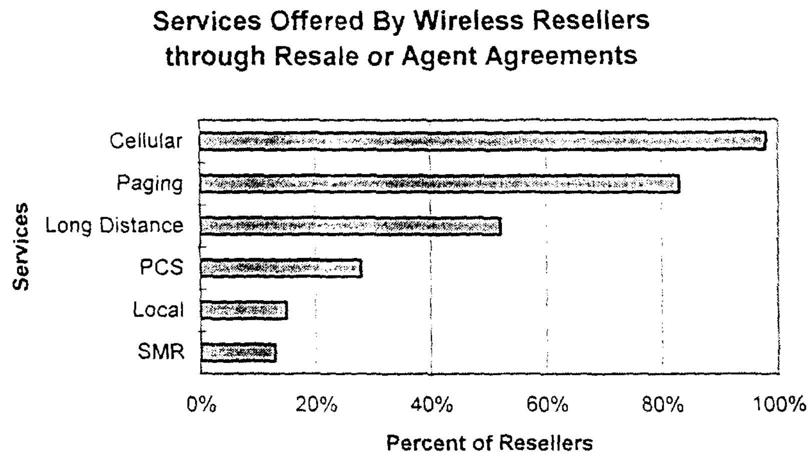


The rate reductions offered by resellers are significant because of the importance wireless customers place on price. Recent studies have shown that price plays a substantial role in consumers' wireless purchase decisions and that many customers are not happy with current wireless pricing. It is no surprise, then, that resellers have attracted almost 2 million customers.

In addition to price advantages, resellers indicate that offering unique services is an important part of their competitive strategy. The survey identified a number of services that are available only from resellers in specific markets, including:

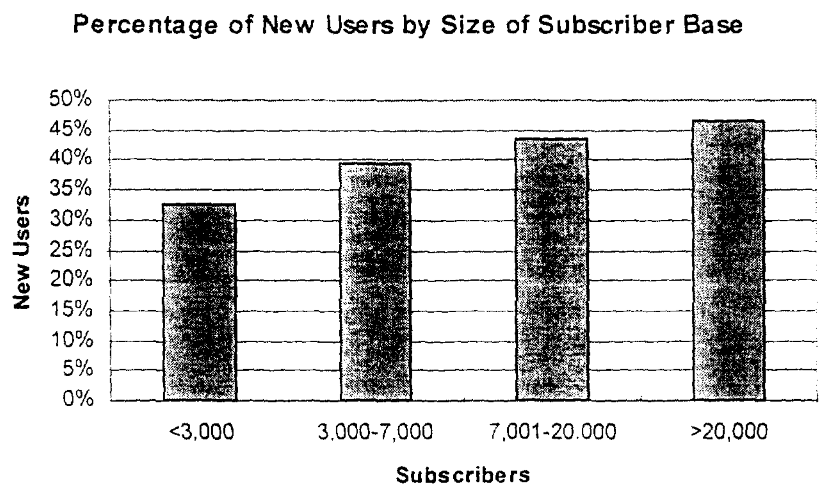
- Consolidated and detailed billing
- Multi-lingual support and services
- Prepaid service
- Loaner, rental, and repair services
- Personalized customer service

In line with the trend toward "one-stop shopping," wireless resellers are offering a broad range of telecommunications services to their customers, often in a consolidated bundle. More than 75 percent of resellers responding to the survey offer paging service and most also offer long distance service.



Several resellers noted that they were restrained from offering unique technical services because of restrictions their underlying carriers placed on them (most prominently, refusing network interconnection).

Critics of the resale market argue that resellers do not "grow" the market but, instead, simply take customers away from carriers. The survey strongly disputes that argument. Resellers reported that close to half (43 percent) of their customers are first-time users of wireless service. And, while the remaining reseller subscribers transfer from other service providers, the survey explains that these consumers switch for good reason: additional or better services at a reduced cost.

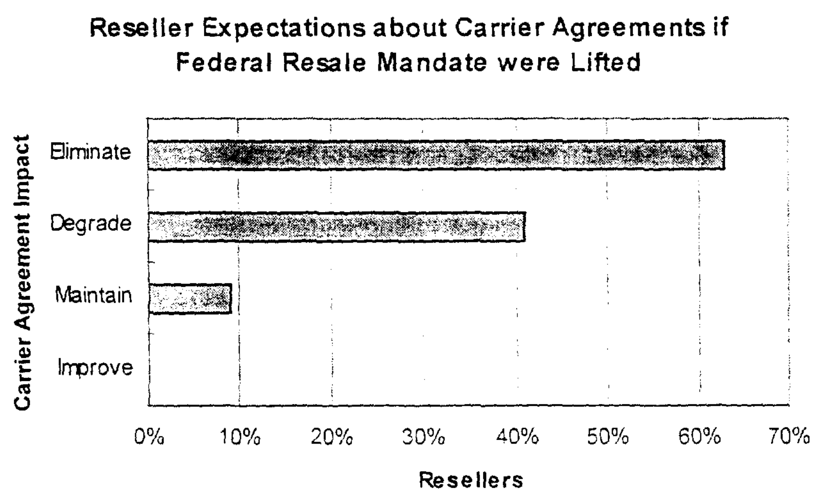


As explained in more detail below, the survey shows that carriers appear to be retaliating against the competitive threat posed by resellers in at least two ways. First, many resellers are being denied access to bulk discounts offered by carriers to retail customers. Second, carriers are denying resellers access to resale agreements. Both tactics, it should be noted, violate Federal rules.

3.3 Reseller-Carrier Relationships: Strained and in Jeopardy

The competitive viability of wireless resellers ultimately depends on their ability to acquire all services from underlying carriers on a nondiscriminatory basis.

The survey clearly shows that resellers are worried that this ability will be severely hampered if Federal oversight of the resale market is lifted. More than 91 percent of survey respondents believe their supplying carriers would degrade or eliminate their resale agreements in the absence of Federal rules prohibiting resale restrictions. 75 percent of smaller resellers – those that offer the largest price breaks to consumers – expect their underlying carriers to eliminate their agreements altogether in the absence of a resale mandate. Under 10 percent of resellers polled expect resale programs to stay the same, and none predicted an improvement.



Resellers seem to have basis for their concern, judging by difficulties identified by the survey. Almost 75 percent of resellers surveyed reported that, during the last year, a cellular, PCS, or SMR carrier had "offered specific bulk discounts for at least 90 days to a similarly-sized or smaller retail customer" but did not make those discounts available to the reseller. Over 90 percent of the smallest resellers reported such illegal discrimination.

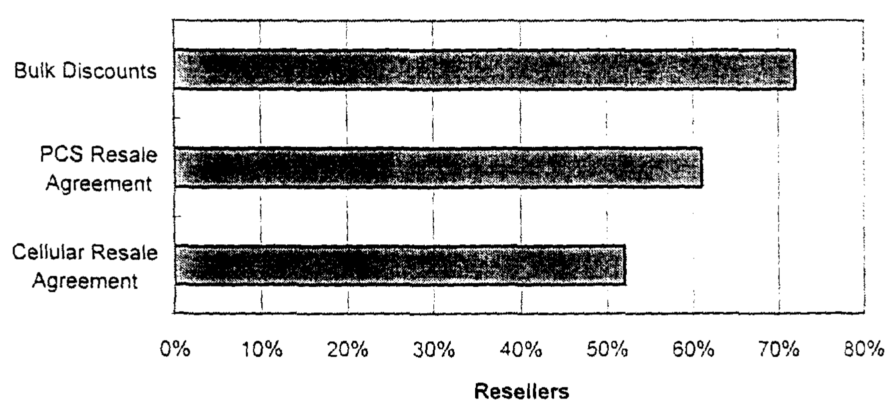
Resellers also reported difficulty simply obtaining agreements. Half of the resellers reported that during the last year they had been "denied a cellular resale agreement because the carrier either claimed it did not have a resale program or avoided negotiating an agreement." For resellers with more than 7,000 customers, that proportion rose to two-thirds.

3.4 PCS Resale: New Technology, Same Difficulties

While PCS is expected to bring increased competition to the wireless market, the survey raises serious concerns about how PCS carriers will treat resellers. Only 11 percent of the resellers responding to the survey said they had secured a resale agreement with a broadband PCS carrier, and fewer than 7 percent said they had an agreement with an operating PCS carrier (i.e., a carrier other than Next*W*ave Telecom). Over 60 percent of survey participants reported that a PCS carrier operating in their markets at least 90 days had failed to produce a resale agreement despite the resellers' efforts to secure an agreement. The proportion rose to over 80 percent for resellers with more than 7,000 customers.

Considering the difficulty resellers already have experienced with PCS carriers, as shown by the survey, eliminating the Federal requirement that PCS carriers must provide service to resellers on a nondiscriminatory basis likely would stop the development of a significant PCS resale market before it even gets started – just as resellers predict in their survey responses.

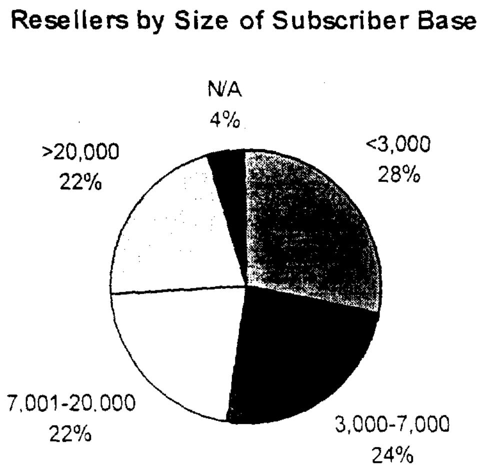
Resellers Denied Access to Carrier Bulk Discounts or Resale Agreements

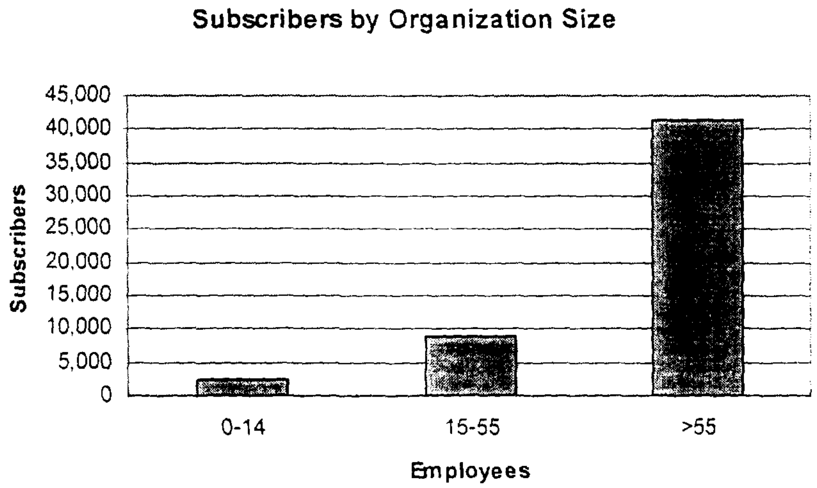


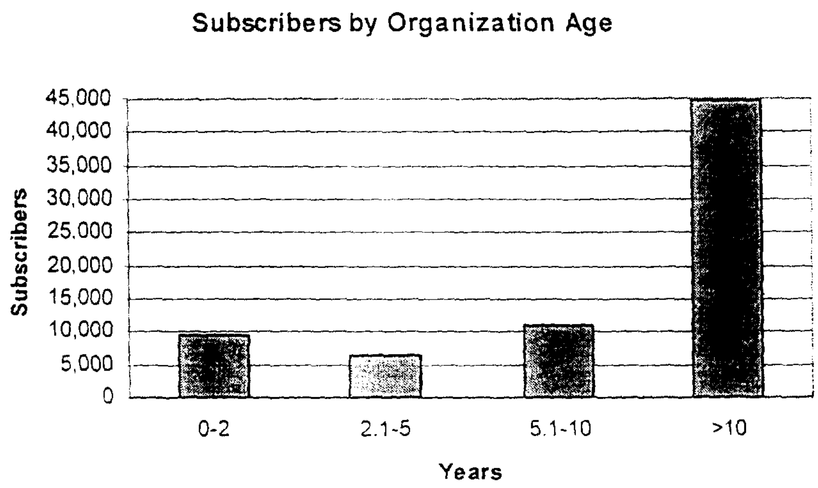
4. Survey Results: Profiles of the Wireless Resale Industry

In addition to the four areas of particular interest to the resale industry, the survey produced a wealth of information about the wireless resale market and resellers.

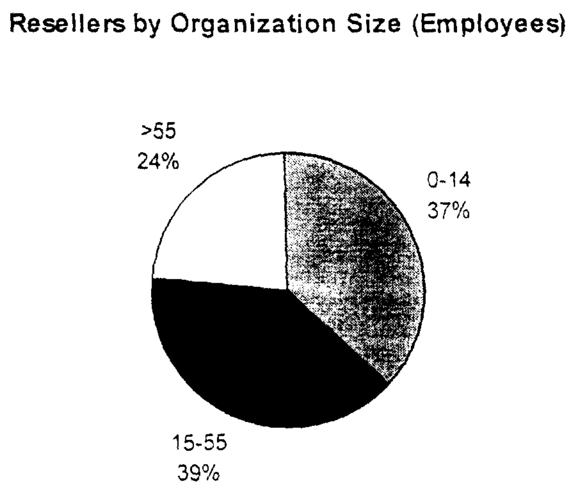
4.1 Subscriber Base Size



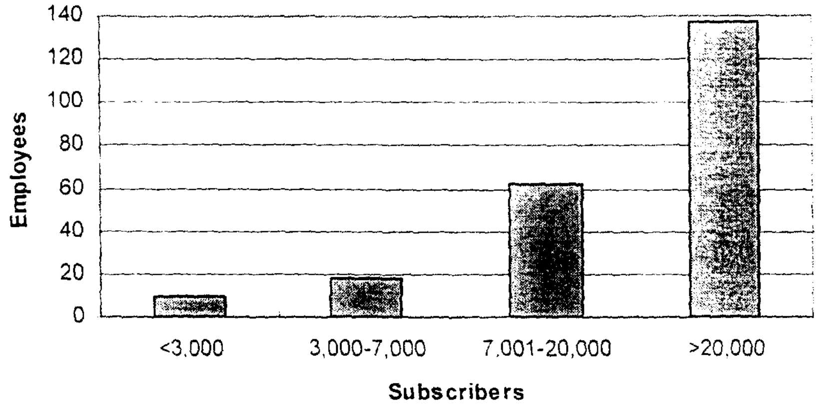




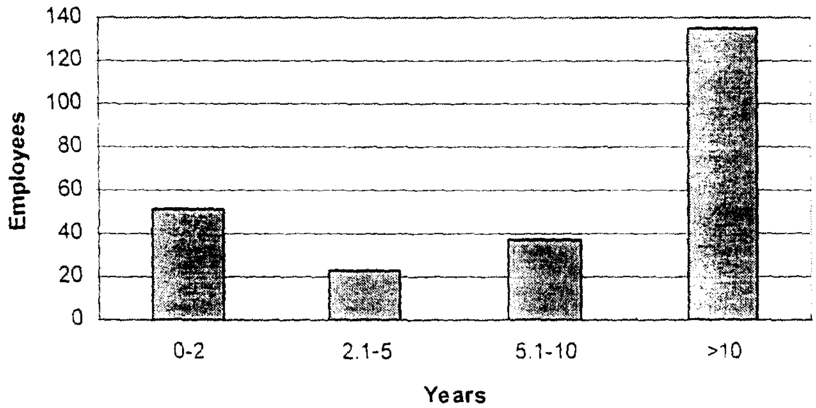
4.2 Organization Size



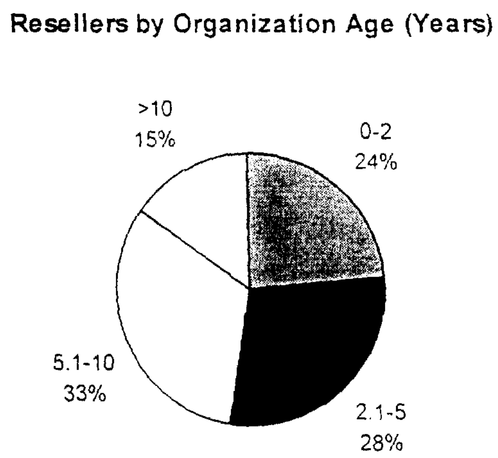
Organization Size by Size of Subscriber Base

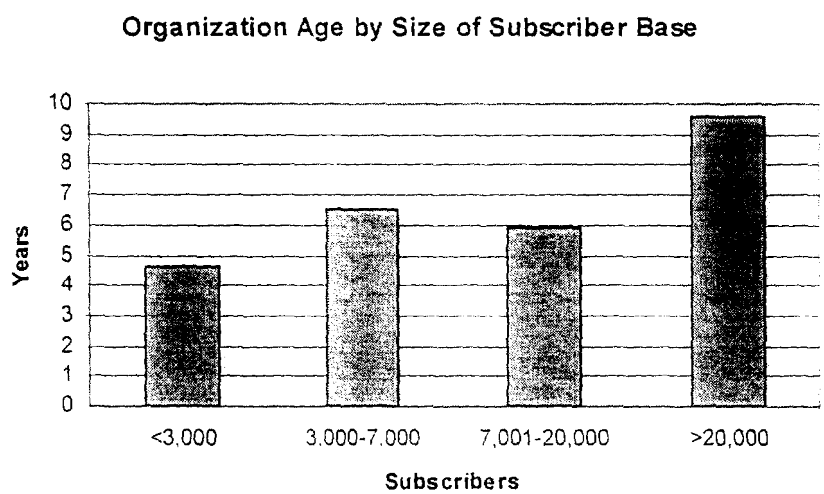


Organization Size by Organization Age

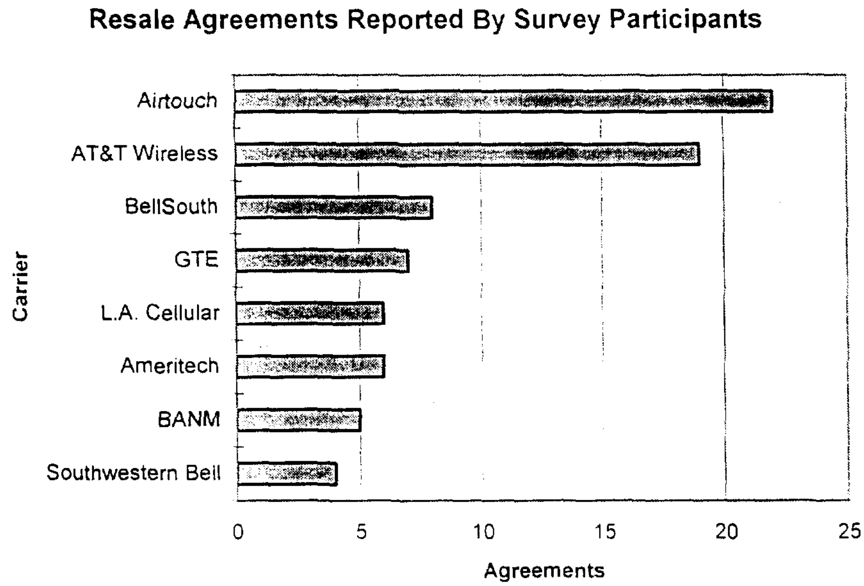


4.3 Organization Age

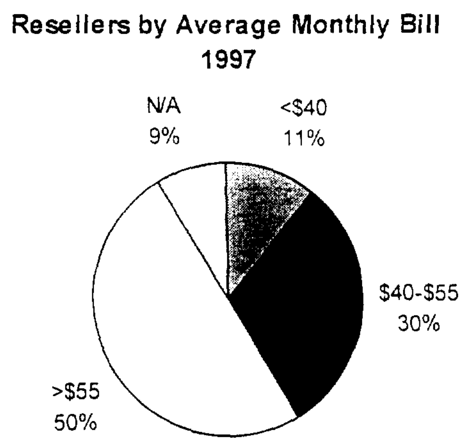




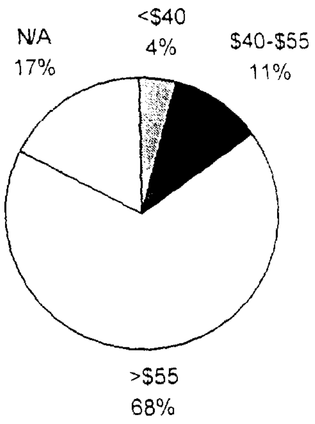
4.4 Underlying Carriers



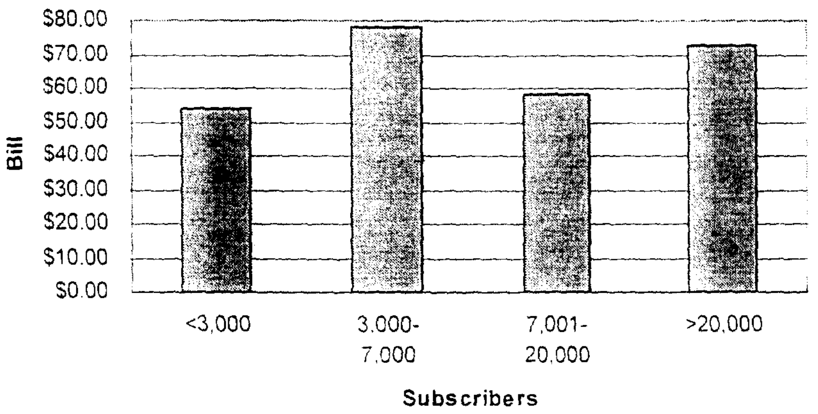
4.5 Average Monthly Retail Bill: Resellers responding to the survey reported an average monthly retail cellular bill of $65 today and $78 one year ago.



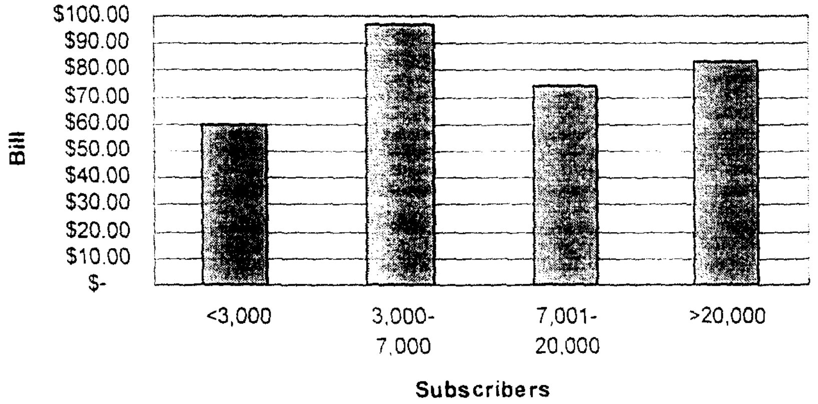
Resellers by Average Monthly Bill
1996

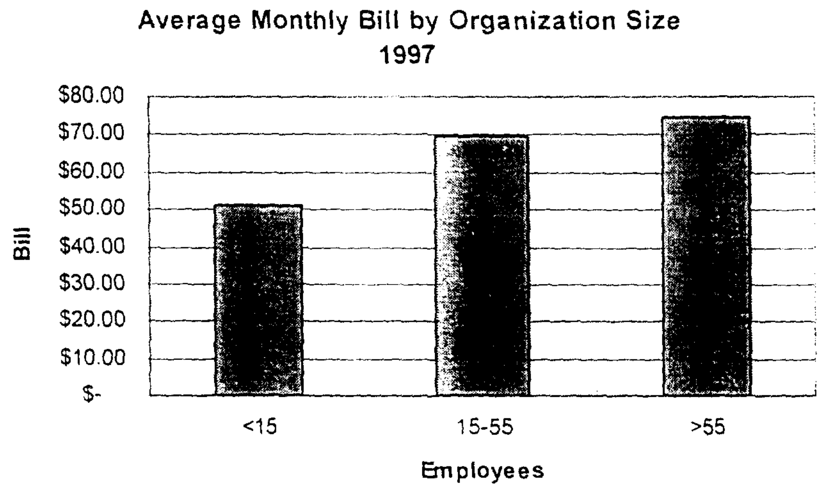


Average Monthly Bill by Size of Subscriber Base
1997

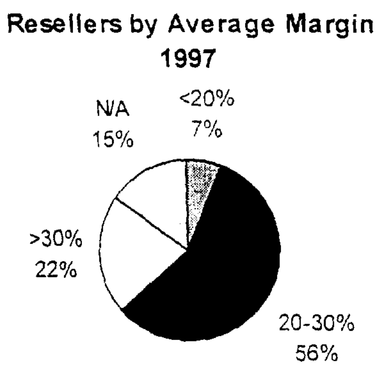


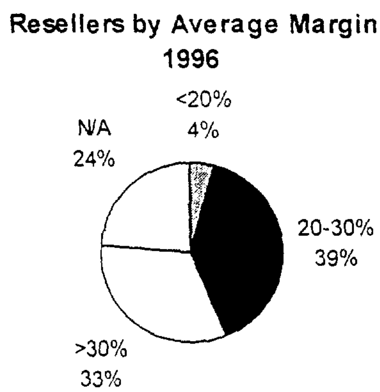
Average Monthly Bill by Size of Subscriber Base
1996



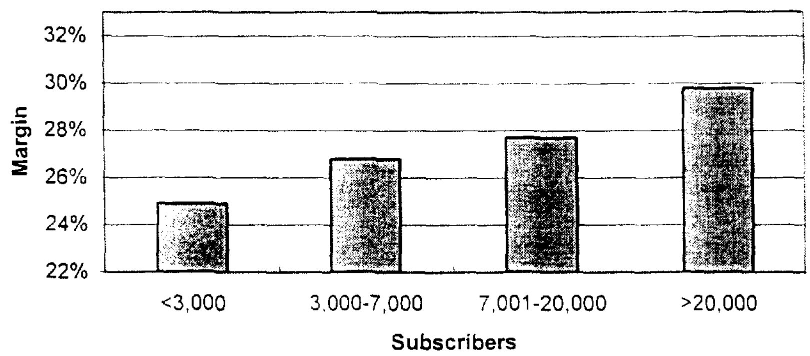


4.6 Average Margin: Resellers responding to the survey reported an average wholesale/retail margin of 27% today and 31% one year ago.

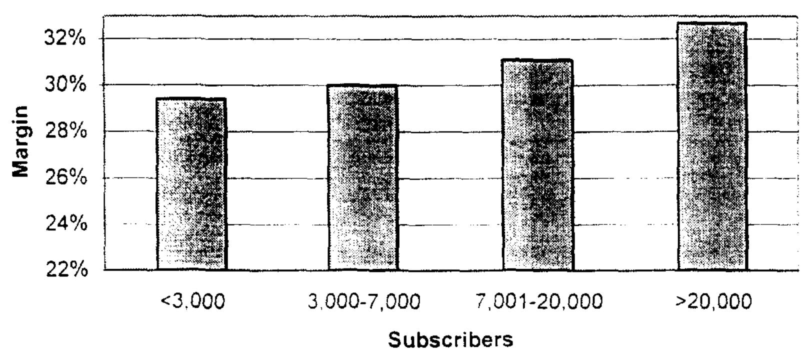




Average Margin by Size of Subscriber Base
1997

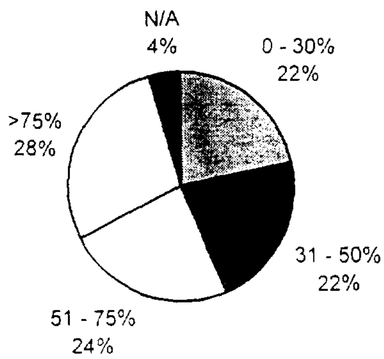


Average Margin by Size of Subscriber Base
1996

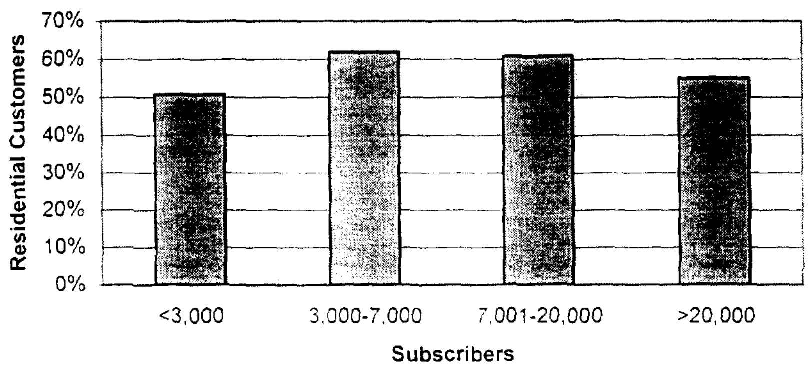


4.7 Business/Residential Customer Split

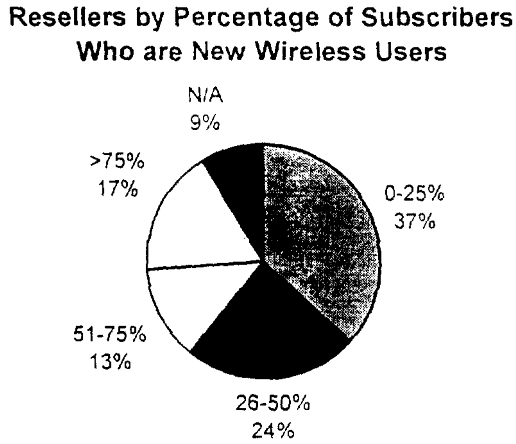
Resellers by Percentage of Residential Customers

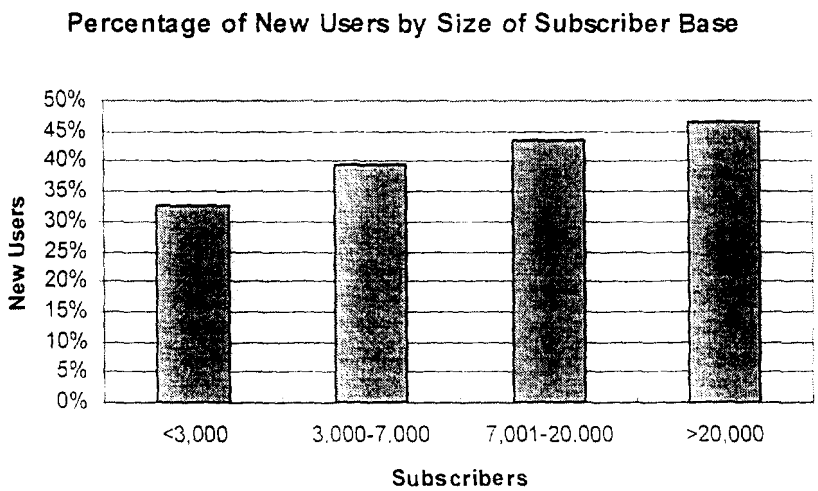


Percentage of Residential Customers by Size of Subscriber Base



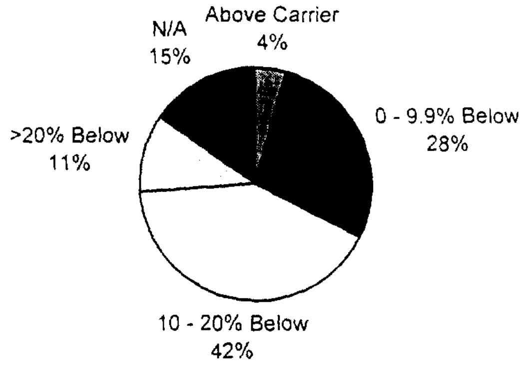
4.8 New Wireless Subscribers: Resellers responding to the survey reported that 43% of their customers are first-time users of wireless service.



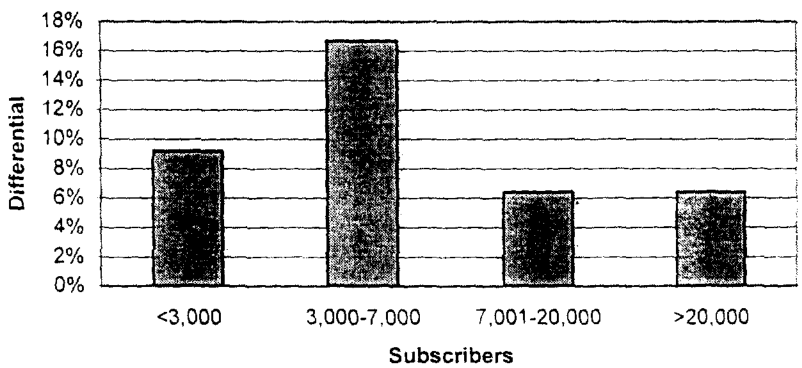


4.9 Carrier-Reseller Rate Comparison

Resellers by Price Differential from Carrier Retail Rates



Price Differential Below Carrier Retail Rates, by Size of Subscriber Base



4.10 Market Niches

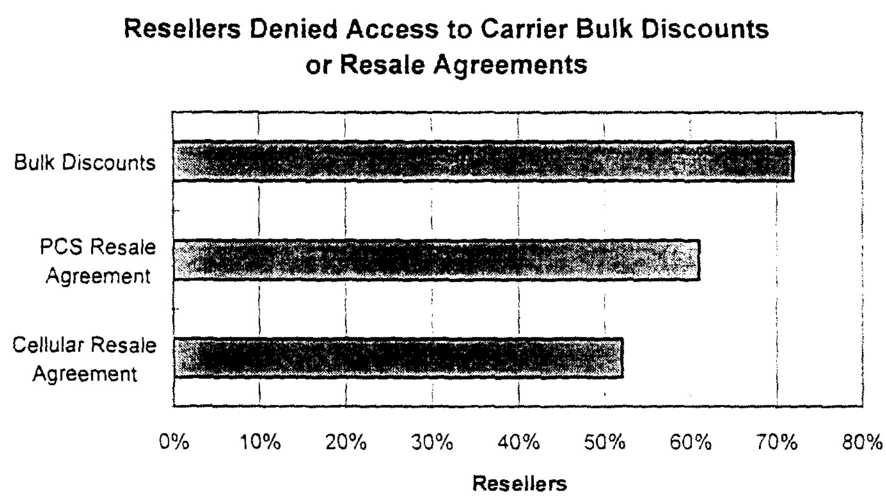
Resellers listed the following market niches as focuses of their operations:

- Prepaid
- Upscale
- Business/Commercial
- Construction
- Small Business
- Credit-challenged
- Safety/Security
- Ethnic Minorities
- Residential
- Professional
- Universities
- Government

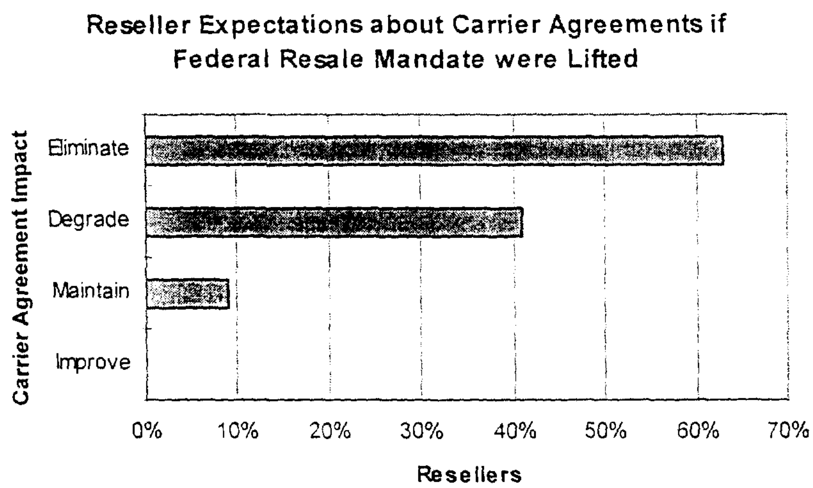
4.11 Prepaid Service

Of those responding to the survey, 57 percent said they were offering prepaid service, and that prepaid customers accounted for an average of 22 percent of their total subscribers.

4.12 Carrier Denial of Discounts or Agreements



4.13 Reseller Expectations of Lifting of Federal Resale Mandate



5. Survey Methodology

On June 10, 1997, NWRA mailed survey forms to all wireless resellers in the association's database – 91 companies. Resellers receiving the survey forms were asked to complete and return the forms to NWRA by June 18. 46 resellers, or 50.5% of the total number of resellers receiving a survey form, completed and returned the form to NWRA, which then compiled the results. A copy of the survey form is attached to this report.